

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MEDICAL SUPPLY DISTRIBUTION, LLC,)	CASE NO. 2:21-cv-00161
)	JUDGE MICHAEL H. WATSON
Plaintiff,)	
v.)	MAGISTRATE JUDGE
)	CHELSEY M. VASCURA
CHEM & CONSULT, INC., et al.,)	
)	<u>JOINT MOTION TO MODIFY CASE SCHEDULE</u>
Defendants.)	

Pursuant to Fed. Civ.R. 6(b)(1)(A) and 16(b)(4) and S.D. Ohio Civ. R. 16.2, Plaintiff Medical Supply Distribution, LLC, Defendant Chem & Consult, Inc., and Defendant Mitch Goodman (collectively, the “Parties”) respectfully jointly move for modification of the pretrial case schedule as set forth in the Court’s January 5, 2022 Opinion and Order. (ECF No. 52). The Parties seek this modification for good cause, as more fully explained in the attached Memorandum in Support. This motion is not interposed for delay.

Respectfully submitted,

/s/ Marc S. Blubaugh
MARC S. BLUBAUGH (0068221) (Trial
Attorney)
ABIGAIL R. RIFFEE (0098867)
**BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP**
41 South High Street, Suite 2600
Columbus, Ohio 43215
Telephone: 614.223.9308
Facsimile: 614.223.9330
mblubaugh@beneschlaw.com
ariffee@beneschlaw.com
*Attorneys for Plaintiff Medical Supply
Distribution, LLC*

/s/ Daniel J. Matusicky (via email consent)
James E. Arnold (0037712)
Daniel J. Matusicky (0091959)
Arnold & Clifford LLP
115 West Main Street, 4th Floor
Columbus, Ohio 43215
Telephone: 614-460-1600
Facsimile: 614-460-1134
jarnold@arnlaw.com
dmatusicky@arnlaw.com
*Attorneys for Defendants Chem & Consult,
Inc. and Mitch Goodman*

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)	JUDGE MICHAEL H. WATSON
Plaintiff,)	
v.)	MAGISTRATE JUDGE
)	CHELSEY M. VASCURA
CHEM & CONSULT, INC., et al.,)	
Defendants.)	<u>MEMORANDUM IN SUPPORT OF</u>
)	<u>JOINT MOTION TO MODIFY CASE</u>
)	<u>SCHEDULE</u>

Plaintiff Medical Supply Distribution, LLC (“Medical Supply”), Defendant Chem & Consult, Inc., and Defendant Mitch Goodman (collectively, the “Parties”) jointly move for modification of the pretrial case schedule set forth in the Court’s January 5, 2022 Opinion and Order. (ECF No. 52). Fed. R. Civ. P. 16(b)(4) provides: “A schedule may be modified only for good cause and with the judge’s consent.” S.D. Ohio Civ. R. 16.2 similarly provides:

Scheduling orders will be issued in conjunction with preliminary pretrial procedures established by the Judges of this Court, which normally will be implemented within ninety days after filing of an action. In any action assigned to a Magistrate Judge for that purpose, the Magistrate Judge is empowered to enter scheduling orders under Fed. R. Civ. P. 16(b), and to modify scheduling orders upon a showing of good cause.

(Emphasis added). Good cause exists to modify and extend the case deadlines set in the Court’s January 5, 2022 Opinion and Order (the “Deadlines”). (ECF No. 52).

Specifically, on December 6, 2021, Medical Supply moved for leave to file its Amended Complaint (the “Motion for Leave”). (ECF No. 49). On December 16, 2021, because the Parties’ case strategy and expenditure of resources was dependent on the Court’s decision on the Motion for Leave, Medical Supply moved to modify the Court’s Preliminary Pretrial Order. (ECF No. 50). On January 2, 2022, the Court granted Medical Supply’s Motion for Leave and, to permit

additional time for additional discovery related to the new claims asserted in Medical Supply's Amended Complaint, also extended the case Deadlines. (ECF No. 52).

Under the current Deadlines, primary expert reports are due March 7, 2022, rebuttal expert reports are due April 7, 2022, and discovery cut-off is May 9, 2022. These Deadlines were scheduled in contemplation of additional discovery related to Medical Supply's new claims.

Yet, despite Medical Supply's immediate issuance of written discovery to Defendants on January 10, 2022, to date, Medical Supply has not received responses to those requests. Defendants' counsel indicated that the responses are "quite voluminous," and that Defendants will produce responses and documents during the week of February 21, 2022. Additionally, after Medical Supply's issued notice of Defendant Chem & Consult, Inc.'s 30(b)(6) deposition, Defendants' counsel stated that he and his client are unavailable for depositions the entire month of March. The Parties are also currently contemplating a potential mediation in mid-April.

The information contained in Defendants' anticipated discovery responses and the information that will be learned during Defendants' depositions are necessary to ensure that the Parties' expert reports are complete and comprehensive. Further, this information is also necessary in order to evaluate and analyze the case further prior to the mediation.

Unless the Deadlines are extended, the Parties will be forced to fight over schedules and witness availability, conduct piece-meal and fitful discovery, prepare and produce multiple, developing, supplemental expert reports, and incur substantial (and redundant) litigation costs. All of these issues will almost certainly frustrate the purpose of conducting a mediation. However, if the Deadlines are extended as requested, the Parties will have the opportunity to proceed in an orderly and efficient fashion, to forgo (or at least defer) certain costs, to focus on the merits of the case, and to explore settlement possibilities in a thoughtful and informed manner.

If a settlement does not occur at the mediation, the Parties will still have ample time to prepare their respective cases for dispositive motions, trial, or both. This brief extension will not prejudice either party and will not unduly delay case management as no trial date has yet even been set.

In view of the foregoing developments, the Parties now move to extend the Deadlines by approximately six (6) weeks. The Parties jointly submit the following amended case schedule, in lieu of the Deadlines set forth in the Court's January 5, 2022 Opinion and Order (ECF No. 52):

Proposed Deadlines:

(1)	Primary expert reports	April 18, 2022
(2)	Rebuttal expert reports	May 16, 2022
(3)	Discovery cut-off:	June 17, 2022
(4)	Case-dispositive motions:	July 18, 2022

In conclusion, good cause having been shown, and the Parties being in agreement, the Parties respectfully request that the Court grant the Parties' Joint Motion to Modify Case Schedule.

Respectfully submitted,

/s/ Marc S. Blubaugh
MARC S. BLUBAUGH (0068221) (Trial
Attorney)
ABIGAIL R. RIFFEE (0098867)
**BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP**
41 South High Street, Suite 2600
Columbus, Ohio 43215
Telephone: 614.223.9308
Facsimile: 614.223.9330
mblubaugh@beneschlaw.com
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/s/ Daniel J. Matusicky (via email consent)
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Arnold & Clifford LLP
115 West Main Street, 4th Floor
Columbus, Ohio 43215
Telephone: 614-460-1600
Facsimile: 614-460-1134
jarnold@arnlaw.com
dmatusicky@arnlaw.com
*Attorneys for Defendants Chem & Consult,
Inc. and Mitch Goodman*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was electronically filed on this 23rd day of February, 2022. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Marc S. Blubaugh

Marc S. Blubaugh (0068221) (Trial Attorney)
*One of the Attorneys for Plaintiff Medical Supply
Distribution, LLC*